

REMARKS

1. Amendments to the Claims

The Examiner indicated that claims 6 and 43 are allowable. Claims 46-77 and 82-86 are herein cancelled. Claims 78, 79, and 80 are herein amended to incorporate their base claims and to recite SEQ ID NOs: 1 and 2. Accordingly, no new matter has been added.

2. Rejection Under 35 U.S.C. § 101

The Examiner rejects claims 46-51 under 35 U.S.C. § 101 as not supported by a substantial asserted utility or a well-established utility. Applicants note that claims 46-51 have been cancelled. Applicants therefore request that the Examiner withdraw the rejection.

3. Rejection Under 35 U.S.C. § 112, Written Description

The Examiner rejects claims 52-74, 77, and 82-86 under 35 U.S.C. § 112, as not being sufficiently supported in the written description. These claims are no longer pending. Accordingly, Applicants request that this rejection be withdrawn.

4. Rejection Under 35 U.S.C. § 112, Enablement

The Examiner rejects claims 46-77 and 78-86 under 35 U.S.C. § 112, as not being enabled. Applicants note that claims 46-77 and 81-86 have been cancelled, rendering this rejection moot.

With regard to claims 78-80, Applicants respectfully submit that the Examiner has indicated that that “an isolated nucleic acid encoding the amino acid sequence of SEQ ID NO: 2, a chimeric nucleic acid comprising said isolated nucleic acid, a transformant comprising said chimeric nucleic acid, a plasmid comprising said nucleic acid, a host organism either a microorganism or plant comprising said plasmid, and a method of metabolic modification of a plant comprising introducing said isolated nucleic acid” are enabled. (Office Action, page 9).

Claims 78-80 recite the nucleotide of SEQ ID NO: 1 and a nucleotide sequence encoding the amino acid sequence of SEQ ID NO: 2. As SEQ ID NO: 1 encodes SEQ ID NO: 2, and because of the Examiner’s statements, Applicants submit that claims 78-80 are enabled.

Applicants request that the rejection be withdrawn and the claims be permitted to proceed towards allowance.

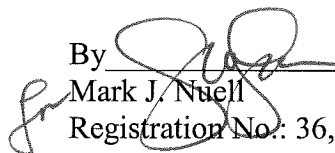
Applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mark J. Nuell Reg. No. 36,623 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: November 13, 2009

Respectfully submitted,

By  #47,604
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